First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Hartley Bay First Nation

DOC
BC
W324
D:F57H37
2000
c.3

WATER BC our vital resource
Ministry of Environment, Lands and Parks

LEGISLATIVE LIBRARY
VICTORIA, BC V8V 1X4

BRITISH COLUMBIA

LEGISLATIVE LIBRARY OF BRITISH COLUMBIA
3 3298 00247 5359

101-01434/

MINISTRY OF ENVIRONMENT, LANDS and PARKS
WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Hartley Bay First Nation

Research and writing by:	Elizabeth Lee
Edit by:	JOL Consulting
Review by:	Gary W. Robinson
Prepared for publication:	June, 2000

Canadian Cataloguing in Publication Data
Lee, Elizabeth.
First Nations water rights in British Columbia. A historical summary of the rights of the Hartley Bay First Nation

ISBN 0-7726-4289-3

1. Water rights - British Columbia - Kulkayu (Hartley Bay) Indian Reserve No. 4. 2. Water rights - British Columbia - Kulkayu (Hartley Bay) Indian Reserve No. 4A. 3. Tsimshian Indians - British Columbia - Kitimat Region - Government relations. I. JOL Consulting (Firm) II. Robinson, Gary W. III. British Columbia. Water Management Branch. IV. Title. V. Title: Historical summary of the rights of the Hartley Bay First Nation.

KEB529.5.W3L432 2000 346.71104'32 C00-960223-2
KF8210.W38L432 2000

ACKNOWLEDGMENTS

The Ministry of Environment, Lands and Parks wishes to acknowledge three partners whose contributions were invaluable in the completion of the *Aboriginal Water Rights Report Series:*

The Ministry of Aboriginal Affairs, was a critical source of funding, support and direction for this project.

The U-Vic Geography Co-op Program, was instrumental in providing the staffing resources needed to undertake this challenging task. Through the services of June Whitmore and her office, the project benefited from the research, writing, editing and co-ordination of these outstanding students:

Jas Gill
Julie Steinhauer
Kelly Babcock
Daniella Mogus
Miranda Griffith
Christina Rocha
Rachel Abrams
Elizabeth Lee
Sara Cheevers

The services of Clover Point Cartographics Limited of Victoria, was responsible for the preparation of most of the map drawings, which form a valuable part of these documents.

In addition to these three key partners, I must acknowledge the valuable contributions of other Water Management staff, past and present, including Jack Farrell, Jim Mattison, Richard Penner, Diana Jolly, Greg Blaney, Gary Lucas and Kim Johnston.

The sheer numbers of First Nations groups' with histories of water rights made the completion of the Report Series seem, at times, prolonged. The determination, patience and vision of the partners was essential in the completion of the Series and is gratefully acknowledged.

Gary Robinson
Project Manager
Water Management Branch

TABLE OF CONTENTS

LOCATION..... 1

WATER ALLOCATIONS..... 1

HISTORY, CURRENT STATUS AND NOTES..... 2

Gabion River
- History..... 2
- Current Status..... 2
- Notes..... 3

OTHER INFORMATION..... 3

APPENDICES

TAB NO.:

1 TABLE: Summary of Water Rights Records for the Hartley Bay First Nation

2 LICENCES and PLATS
Conditional Water Licence 61858.

3 STREAM REGISTER REPORTS
Gabion River.

4 MAPS: Hartley Bay First Nation
- i. one 1:50,000 map;
- ii. two 1:250,000 maps.

FIRST NATIONS WATER RIGHTS REPORT

BAND:	Hartley Bay Band		
ADDRESS:	General Delivery, Hartley Bay, BC, V0V 1A0		
CHIEF:	Chief William Clifton		
PHONE:	841-2500	**FAX:**	841-2581
AFFILIATION:	North Coast Tribal Council, Tsimshian Tribal Council		

LOCATION:

The Hartley Bay First Nation occupies thirteen small reserves scattered along Douglas Channel, south of the town of Kitimat. The reserves occupy a total land area of 523.3 hectares. Of the reserves, water rights have been allocated on:

- Kulkayu #4; and
- Kulkayu #4A.

The most recent population figures compiled by the Ministry of Finance report that the Hartley Bay Band has a total population, including registered and non-registered members, living on- and off-reserve, of 582.

The Hartley Bay reserves occur in the Coastal Western Hemlock Biogeoclimatic Zone. The reserves lie at elevations ranging from 500 feet to 1500 feet above mean sea level, and experience a climate in which average daily temperatures range from lows of -10 degrees centigrade in January, to highs less than 16 degrees centigrade in July. Annual rainfall for the area totals in excess of 250 centimeters.

Water course of significance include:

- Gabion River: flows southeast and discharges into Douglas Channel.

WATER ALLOCATIONS:

There are no records of allocations made by either the Indian Reserve Commission, by Order-in-Council of the Lieutenant Governor in Council, or by Order of the Board of Investigation.

The water rights of the Hartley Bay First Nation have been determined by one action of government over the years:

1) The issue of water licences in response to Federal Government applications requesting authorization for the use of water on reserve lands.

HISTORY, CURRENT STATUS AND NOTES:

The history of water rights, the current status of rights, and notes for the Hartley Bay Band with respect to Gabion River are as follows:

Gabion River:

History:

Nov 14, 1984 — In accordance with an application made by the Hartley Bay First Nation, the Comptroller of Water Rights issued Conditional Water Licence 61858. The licence was assigned a precedence date of February 18, 1980 and authorizes the diversion of 100,000 gallons of water per day, throughout the year, from Gabion River for waterworks purpose. The appurtenant lands are defined as Kulkayu #4 and Kulkayu #4A (Hartley Bay).

Current Status:

Conditional Water Licence 61858 is the only licence active on Gabion River.

The Water Survey of Canada has no records of streamflow for Gabion River. No other sources of current water availability for the River were located during the course of this investigation.

Notes:

1. Conditional Water Licence 61858 authorizes use and diversion for waterworks purpose. As such, the licence qualifies the Gabion River drainage area for designation as a Community Watershed under provisions contained in the Forest Practices Code.

OTHER INFORMATION:

Groundwater Records:

A review of records maintained by the MELP - Groundwater Section found that no wells have been reported on either Kulkayu Reserve #4 or Kulkayu Reserve #4A. However, as the provision of well information to the Groundwater Section is voluntary this review should not be assumed to be complete.

Alternate Water Sources:

At this time the potential for water supply from a municipality is limited as there are no municipal water systems in the proximity of the Hartley Bay Reserves.

Summary of Water Rights Records

Hartley Bay First Nation

Water Source	Priority Date	Reserve Name	File No.	Document Type	Status	Superceded By	Licence PUC/MOD & OIC Allotments	Comments
Gabion River	1980/02/18	Kulkayu 4, Kulkayu 4A	366062	CL 61858	Current		100,000 GAD/Waterworks	CL 61858 - Purpose: 'Waterworks' classification qualifies the Gabion River drainage area for designation as "Community Watershed" under provisions contained in the Forest Practices Code.

WATER MANAGEMENT BRANCH

MINISTRY OF ENVIRONMENT

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT

CONDITIONAL WATER LICENCE

Hartley Bay Indian Band of Hartley Bay, B. C. V0V 1A0

is hereby authorized to divert and use water as follows:

(a) The source of the water-supply is Gabion River.

(b) The point of diversion is located as shown on the attached plan.

(c) The date from which this licence shall have precedence is 18th February, 1980.

(d) The purpose for which the water is to be used is waterworks.

(e) The maximum quantity of water which may be diverted is 100,000 gallons a day, and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(f) The period of the year during which the water may be used is the whole year.

(g) The land upon which the water is to be used and to which this licence is appurtenant is Indian Reserves 4, Kulkayu and 4A, Kulkayu (Hartley Bay), Range 4, Coast District.

(h) The works authorized to be constructed are diversion structures, pumphouse, tank, pipe and distribution system, which shall be located approximately as shown on the attached plan.

(i) The construction of the said works has been completed and the water shall be beneficially used on or before the 31st day of December, 1985.

J. E. Farrell
Deputy Comptroller of Water Rights

ENTERED ON
Map No. .....
By .....

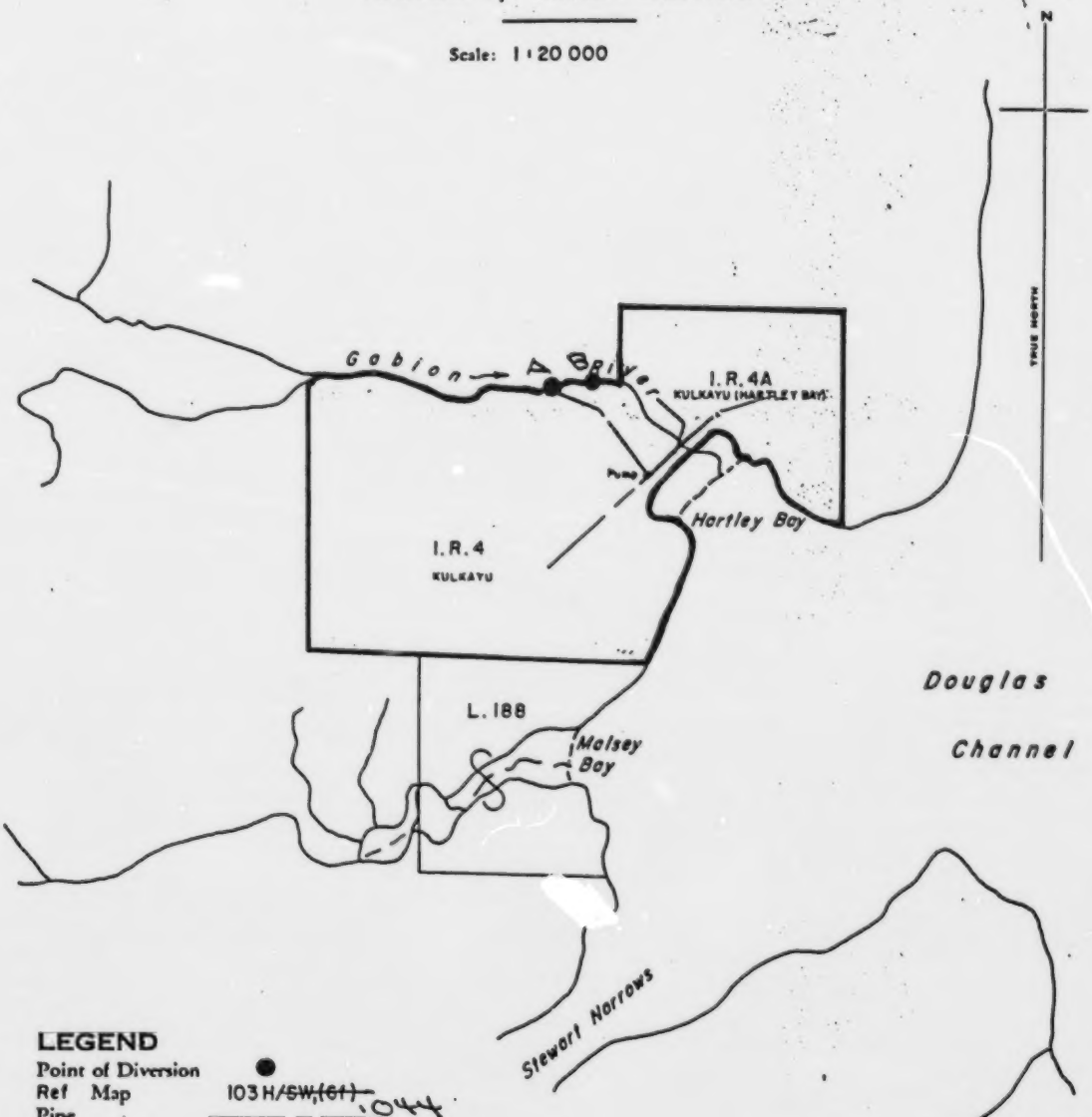
File No. 0366062 Date issued: NOV 14 1984 Conditional Licence 61858

W-183

British Columbia

PRINCE RUPERT WATER DISTRICT
RANGE 4, COAST DISTRICT

Scale: 1 : 20 000



LEGEND

Point of Diversion ●

Ref Map 103 H/~~SW,(61)~~ 104

Pipe ———— — — ————

The boundaries of the land to which this licence is appurtenant are shown thus: ————

Signature _____

Date NOV 14 1984

CL 61858
File 0366062

Kitimat Precinct

Stream Register Report Water Licence Information System

Report Requested By : ELER
Date Report Requested : 1996/10/11 13:39
Report Sorted By : Source Gazetted - Priority Date - Licence Number
Selection Criteria
START POINT : PD35794 - 103.H.044 A
END POINT : S020811 - Gabion River on Salt Water

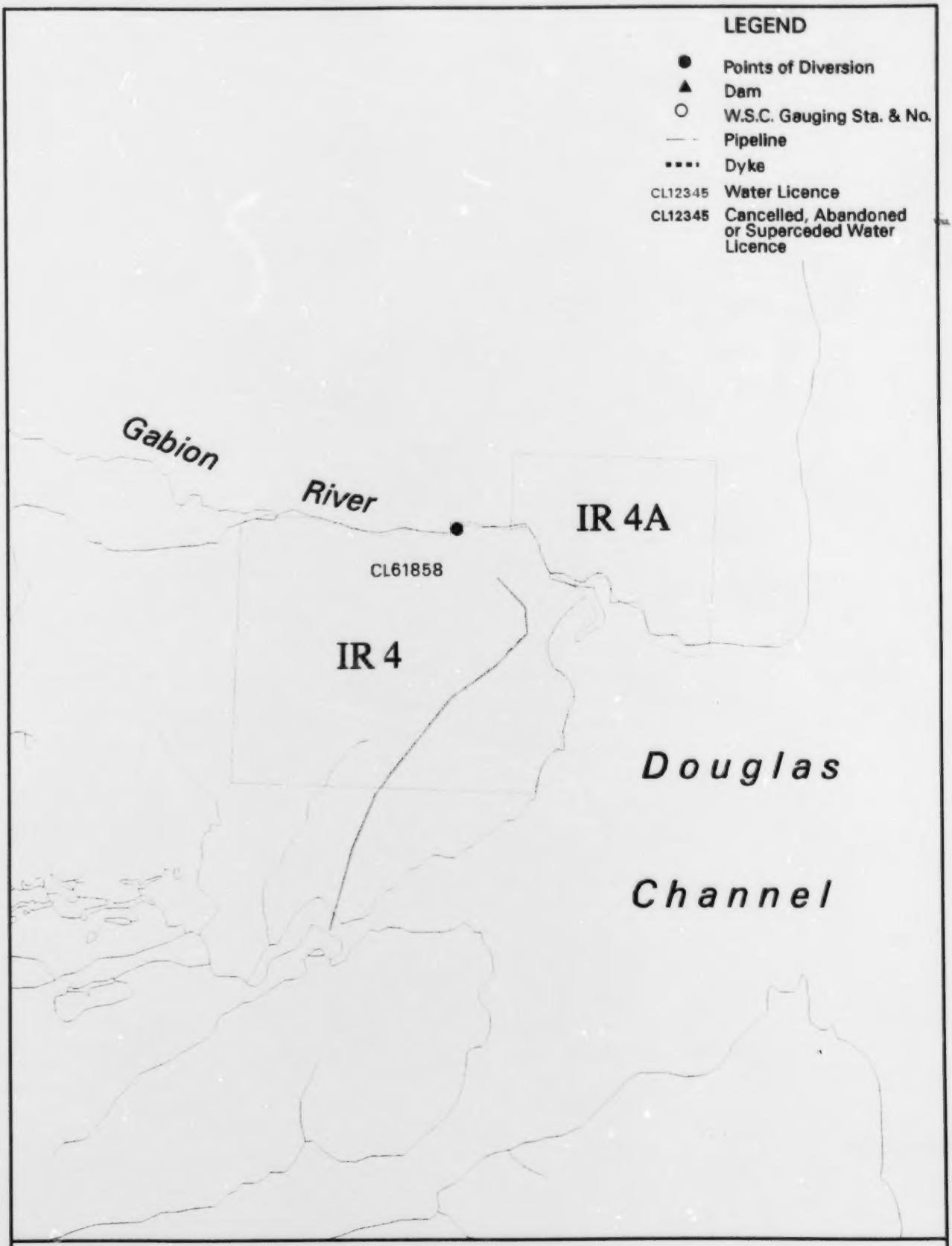
Stream Register Report

Water Licence Information System

DATE: 1996/10/11
TIME: 13:39
PAGE: 001

Priority YYYY/MM/DD	Licence Number	File Number	Appurtenancy	Licensee	PUC	Quantity/Units	Term Start	Term End	Licence Comments	Process Status
Source		WR Map	POD	RED POD Comments					Prec	
1980/02/10	C061858	0366062	IR 94 KULKAYU & 4A KULKAYU (HARTLEY BAY) R 4 COAST DIST	HARTLEY BAY INDIAN BAND 986-675-7846 GD HARTLEY BAY BC V0V1A0	MWKOT	100,000.00 GD	Jan 01	Dec 31		
Gabion River		WR103.H.044	B	N					25A FR - KITIMAT	
Gabion River		WR103.H.044	A	N						

---------- Total of 1 Licence Reported ----------



HARTLEY BAY FIRST NATION

Scale: 1 : 20,000

Ministry of Environment, Lands & Parks | Date: April 2000 | Environment & Lands Division